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Fresno, California

November 2, 1999

The City Council met in joint session with the Redevelopment Agency at the hour of 8:44 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Garry Bredefeld	Councilmember
	Chris Mathys	Acting Council President (arrived later)
	Henry Perea	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Councilmember
	Ken Steitz	Council President

Jeff Reid, City Manager  
Dan Fitzpatrick, Agency Executive Director  
Hilda Cantu Montoy, City Attorney  
Rebecca Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

**(8:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

**APPROVE AGENCY MINUTES OF OCTOBER 26, 1999**

On motion of Councilmember Bredefeld, seconded by Councilmember Quintero, duly carried, RESOLVED, the minutes of October 26, 1999, approved as submitted.

**(“A”) CONSIDER APPROVAL OF TWO AGREEMENTS BETWEEN THE COUNTY OF FRESNO, THE CITY OF FRESNO, AND THE REDEVELOPMENT AGENCY RELATING TO THE AIRPORT AREA, CENTRAL CITY COMMERCIAL, SOUTH FRESNO INDUSTRIAL, AND SOUTHEAST FRESNO REVITALIZATION REDEVELOPMENT PROJECT AREAS**

- 1. \* APPROVE AGREEMENT REGARDING TAX INCREMENT (COUNCIL AND AGENCY ACTION)**
- 2. APPROVE COOPERATIVE AGREEMENT TO PROVIDE JOINT PARTICIPATION IN PROMOTING EMPLOYMENT FOR PERSONS TRANSITIONING OUT OF PUBLIC ASSISTANCE AND INCREASING AFFORDABLE HOUSING (COUNCIL AND AGENCY ACTION)**

A motion and second to approve the agreements was acted upon after brief discussion. Agency Director Fitzpatrick advised the cap amounts were inclusive of the Housing Set Aside funds and submitted a corrected Page 2 to the staff report reflecting that correction.

President Steitz expressed his opposition stating Council should not be committing future Councils to an agreement wherein laws could change in the future, and relative to joint participation promoting employment stated the County was not doing anything and explained. Mr. Fitzpatrick responded briefly to questions of Chair Ronquillo relative to the Welfare to Work program.

On motion of Councilmember Perea, seconded by Councilmember Quintero, duly carried, RESOLVED, the Executive Director or his designee, and the City Manager, or his designee, authorized to execute (1) an Agreement with the County of Fresno and City of Fresno regarding tax increment, and (2) a Cooperative Agreement with the County of Fresno and the City of Fresno relating to the Airport Area, Central City Commercial, South Fresno Industrial, and Southeast Fresno Revitalization Redevelopment Project Areas, by the following vote:

Ayes	:	Boyajian, Bredefeld, Perea, Quintero, Ronquillo
Noes	:	Steitz
Absent	:	Mathys

**(“B”) REQUEST STAFF, IN CONSULTATION WITH THE CITY ATTORNEY, TO PREPARE ENABLING DOCUMENTS AND RECOMMENDATION NECESSARY TO UTILIZE FUNDS FOR ACQUISITION REHABILITATION AND RESALE OF SUBSTANDARD PROPERTIES**

**1. DIRECTION TO STAFF TO PREPARE AN AMENDMENT TO AAR 99-181 APPROPRIATING \$20,000 FROM DISTRICT 3' GENERAL FUND INFRASTRUCTURE BUDGET AND \$20,000 FROM THE REDEVELOPMENT AGENCY HOUSING SET ASIDE TO FUND A PROGRAM OR PROJECT FOR THE ACQUISITION, REHABILITATION AND RESALE OF SUBSTANDARD PROPERTIES - CHAIR RONQUILLO**

Chair Ronquillo reviewed the issue and the proposed program and funding request, and along with Agency Director Fitzpatrick and Housing and Neighborhood Revitalization Director Quiring, responded to questions of President Steitz relative to whether the \$20,000 in Agency funds was currently dedicated to a specific project, if the City already had a housing rehabilitation program, the difference between the existing program and the one being proposed by Chair Ronquillo, which non-profit organization would be selected, and if the existing rehabilitation funds were used in conjunction with 203K's. Chair Ronquillo made a motion to approve the direction as outlined above.

City Manager Reid recommended the funding be budgeted legitimately stating to assume there would be a reserve at the end of the year was a very dangerous approach and explained, and added this was a unique request in that Council was being asked to budget funds for an entity that did not exist.

Chair Ronquillo and Ms. Quiring responded to questions of Councilmember Quintero relative to why a separate non-profit needed to be formed, if the program would target only redevelopment areas, redevelopment funds being used outside redevelopment areas, if the program was for District 3 since funding was coming from District 3's budget, utilizing eminent domain powers to rehabilitate homes, the Self Help Program used by other cities, and if the City had the ability to purchase a home and rehabilitate and sell it. Acting President Mathys arrived at 9:03 a.m. Upon question, City Attorney Montoy clarified Chair Ronquillo's motion would be direction to staff to develop a policy and that financial and policy issues would be discussed.

Councilmember Quintero stated he also had numerous boarded up homes in his district and wanted more information on the program. Councilmember Perea stated he wanted to see the program in writing before allocating funds. Chair Ronquillo responded briefly to questions of Councilmember Boyajian relative to the selection of the non-profit.

postpone the matter for a written report on the program. Brief discussion ensued and with Council consensus, the matter was continued one week for a report back from staff.

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The joint bodies adjourned and the City Council convened in regular session at 9:15 a.m.

Pastor Miller Oliver, Victory Outreach Church, gave the invocation.

Councilmember Perea led the Pledge of Allegiance to the Flag.

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PROCLAMATION OF "BRUCE OWDOM DAY" - COUNCILMEMBER BOYAJIAN

PROCLAMATION OF "OLIVIA WHITTLE DAY" - ALL COUNCILMEMBERS

RESOLUTION OF COMMENDATION TO JESS NICHOLS - ACTING PRESIDENT MATHYS

**(2 - 0)** PROCLAMATION OF "NONPROFIT BOARD DAY"

PROCLAMATION OF "CALIFORNIA HOSPICE MONTH"

The above proclamations/resolutions were read and presented, and Ms. Whittle performed a song.

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**APPROVE MINUTES:**

The minutes of October 26, 1999, were approved as submitted.

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**APPROVE AGENDA:**

**(1A-2) \* RESOLUTION - 366<sup>TH</sup> AMENDMENT TO MFS RES. 80-420 ESTABLISHING A PERMIT FEE FOR SAFE AND SANE FIREWORKS SALES FOR THE PERIOD DECEMBER 26, 1999, TO JANUARY 2, 2000, FOR THE MILLENNIUM CELEBRATION**

City Clerk Klish corrected the above date to *January 1, 2000*. So noted and corrected.

**(5G) \* RESOLUTION - SUBMITTING TO CITY ELECTORS A PROPOSAL TO AMEND THE CHARTER GIVING COUNCILMEMBERS THE RIGHT TO APPOINT TWO (2) COUNCIL ASSISTANTS TO SERVE EACH COUNCIL DISTRICT, AND PLACING SAID MEASURE ON THE MARCH 7, 1999, ELECTION BALLOT - COUNCILMEMBER RONQUILLO**

City Clerk Klisch corrected the above date to *March 7, 2000*. So noted and corrected.

**(5H) PROPOSED APPOINTMENT OF ALAN GILL TO THE WORKFORCE DEVELOPMENT BOARD - COUNCILMEMBER PEREA (FOR INTRODUCTION)**

Laid over one week at the direction of Councilmember Perea.

**(5E) DIRECT THE CITY ATTORNEY TO DRAFT AN ORDINANCE FOR INITIATION AMENDING THE UGM ORDINANCE TO REQUIRE THE ADDITION OF A FULL-SERVICE POLICE SUBSTATION IN NORTHEAST FRESNO; FEES TO BE ASSESSED ON ALL NEW RESIDENTIAL/COMMERCIAL DEVELOPMENT WITHIN THE WOODWARD PARK AREA - COUNCILMEMBER PEREA**

President Steitz set the issue for 2:00 p.m this date.

**(5D) \* BILL - AMENDING SUBSECTION N8-402(g) OF THE FRESNO MUNICIPAL CODE RELATING TO USE OF DESIGNATED PARK AREAS - PRESIDENT STEITZ**

Laid over one week at the direction of President Steitz.

**(11:30 A.M.) WORKSHOP/OVERVIEW OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND CITY IMPLEMENTATION**

Laid over one week at the direction of President Steitz.

On motion of Councilmember Perea, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz
Noes	:	None
Absent	:	None

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**ADOPT CONSENT CALENDAR:**

**(1A-1) APPROVE A CONTRACT WITH COST RECOVERY SYSTEMS, INC. TO PROVIDE ADMINISTRATIVE SERVICES REQUIRED OF THE CITY TO BE REIMBURSED BY THE STATE FOR THE COSTS OF CERTAIN STATE-MANDATED PROGRAMS**

On motion of Councilmember Perea, seconded by Acting President Mathys, duly carried, **RESOLVED**, the contract with Cost Recovery Systems, Inc. hereby approved, by the following vote:

Ayes : Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz  
Noes : None  
Absent : None

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## SUSPENSION OF COUNCIL RULES

On motion of Acting President Mathys, seconded by Councilmember Bredefeld, duly carried, RESOLVED, the Council rules hereby suspended to hear “Unscheduled Oral Communications”, by the following vote:

Ayes : Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz  
Noes : None  
Absent : None

## UNSCHEDULED ORAL COMMUNICATIONS

### APPEARANCE BY BILL WARD, 4640 E. GROVE, REGARDING DENIAL OF DUE PROCESS IN THE SUSPENSION AND DETAINMENT OF HIS SON

Mr. Ward expressed his strong concern stating his son was suspended from school and detained by the Police Department and he and his wife were not notified and did not know where their son was for five days and elaborated. President Steitz requested Mr. Ward give all pertinent information to his office and he and staff would look into the issue and respond accordingly. Mr. Ward responded to questions of Councilmember Boyajian and brief discussion ensued.

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**(9:30 A.M.) HEARING ON REZONING APPLICATION NO. R-99-33, FILED BY FRESNO VENTURES, LCC, PROPERTY LOCATED ON THE NORTH SIDE OF W. FIGARDEN DRIVE BETWEEN N. SANTA FE AND N. BRAWLEY AVENUES**

**1. BILL NO. B-73 - ORDINANCE NO. 99-68 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-2/BA-20/UGM/CZ**

President Steitz announced the time had arrived to consider the issue and opened the hearing. Acting President Mathys advised extensive meetings were held, neighborhood concerns were mitigated, and stated the retirement home would be compatible to the area and made a motion to approve the rezone.

Jan Young Cliston, Development Coordinator with Prestige Senior Living, on behalf of Fresno Ventures, apologized for the expiration of the rezone application filed and approved last year, and requested Council’s support for the project.

Upon call, no one else wished to be heard and President Steitz closed the hearing.

On motion of Acting President Mathys, seconded by Councilmember Ronquillo, duly carried, RESOLVED, based upon the finding of consistency of the requested R-2 zoning, the addition of the BA-20 designation, and the condition carried over from the previous approval, the above entitled Bill No. B-99 adopted as Ordinance No. 99-68,

subject to the property being developed only with an Assisted Living Facility as described in CUP No. C-98-147, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz
Noes	:	None
Absent	:	None

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**(5A) \* RESOLUTION NO. 99-312 - 41<sup>ST</sup> AMENDMENT TO AAR 99-181 APPROPRIATING \$1,300 FROM DISTRICT 7'S GENERAL FUND INFRASTRUCTURE BUDGET TO FUND THE NON-INFRASTRUCTURE RELATED PROJECT FOR THE NEIGHBORHOOD WATCH SP50 RADIOS - COUNCILMEMBER PEREA**

On motion of Councilmember Perea, seconded by Acting President Mathys, duly carried, RESOLVED, the above entitled Resolution No. 99-312 hereby adopted, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz
Noes	:	None
Absent	:	None

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**(5B) \* RESOLUTION NO. 99-313 - 44<sup>TH</sup> AMENDMENT TO AAR 99-181 APPROPRIATING \$1,500 FROM DISTRICT 1'S GENERAL FUND INFRASTRUCTURE BUDGET TO FUND AN AFTER-SCHOOL PROGRAM AT FREMONT SCHOOL - COUNCILMEMBER BOYAJIAN**

On motion of Councilmember Boyajian, seconded by Acting President Mathys, duly carried, RESOLVED, the above entitled Resolution No. 99-313 hereby adopted, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo
Noes	:	None
Absent	:	None
Abstain	:	Steitz

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**(5C) \* RESOLUTION NO. 99-314 - 43<sup>RD</sup> AMENDMENT TO AAR 99-181 APPROPRIATING \$2,600 FORM DISTRICT 5'S GENERAL FUND INFRASTRUCTURE BUDGET TO FUND A SURVIVALINK DEFIBRILLATOR FOR THE SENIOR CITIZEN'S VILLAGE - COUNCILMEMBER QUINTERO**

On motion of Councilmember Quintero, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled Resolution No. 99-314 hereby adopted, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz
Noes	:	None
Absent	:	None

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**(5F) \* RESOLUTION NO. 99-315 - 45<sup>TH</sup> AMENDMENT TO AAR 99-181 APPROPRIATING \$1,800 FROM DISTRICT 5'S GENERAL FUND INFRASTRUCTURE BUDGET TO FUND THE EXHIBIT HALL B EXPENSES FOR THE THANKSGIVING DAY LUNCHEON - COUNCILMEMBER QUINTERO**

A motion and second was made to adopt the resolution. Councilmember Quintero responded briefly to questions of Acting President Mathys relative to sponsors and specifics of the event.

On motion of Councilmember Quintero, seconded by Councilmember Bredefeld, duly carried, RESOLVED, the above entitled Resolution No. 99-315 hereby adopted, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz
Noes	:	None
Absent	:	None

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**(10:00 A.M.) PRESENTATION OF EMPLOYEE SERVICE AWARDS**

Resolutions of Commendation were presented to employees having 10, 15, 20, 25, 30 & 35 years of service, and Council recessed to attend a reception honoring the employees.

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**RECESS - 10:01 A.M. - 10:51 A.M.**

**(10:30 A.M.) REPORT RELATING TO THE EVICTION OF PHILIP MCCULLOUGH, SR. FROM THE DEL MONTE PINES APARTMENTS LOCATED AT 4111 N. FRUIT AVENUE**

City Attorney Montoy referenced staff's report as submitted, noted this was a private project and the City had no jurisdiction, and advised Del Monte Pines did find other housing for Mr. McCullough.

Mr. McCullough thanked staff and Councilmembers Boyajian and Mathys for their assistance, and added the requirements still needed to be changed and explained. Brief discussion ensued, commendations were extended to staff and Council, and Councilmembers Bredefeld, Ronquillo and Boyajian commented on the unfairness of the issue with Councilmember Ronquillo stating the non-profits were making money and they should be as flexible as possible in these types of situations. There was no further discussion.

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**(5G) \* RESOLUTION NO. 99-316 - SUBMITTING TO CITY ELECTORS A PROPOSAL TO AMEND THE CHARTER GIVING COUNCILMEMBERS THE RIGHT TO APPOINT TWO (2) COUNCIL ASSISTANTS TO SERVE EACH COUNCIL DISTRICT, AND PLACING SAID MEASURE ON THE MARCH 7, 2000, ELECTION BALLOT - COUNCILMEMBER RONQUILLO**

Upon questions of Acting President Mathys, City Attorney Montoy and City Manager Reid clarified and responded Council currently had authority over one Council Assistant and other office staff worked for the City Manager, and the fiscal impact would be \$20-25,000 for election costs.

Brief discussion ensued. Councilmember Ronquillo stated things were different with the new form of government, noted 2 full-time assistants with full benefits were needed to work with constituents, and made a motion to adopt the resolution.

Mr. Reid clarified if the goal was a salary increase and benefits it could be achieved by the creation of a new class and without the cost and necessity of a charter amendment. Councilmember Bredefeld seconded the motion, stated only one assistant under Council control was not enough, and concurred with the new form of government two assistants working directly for a Councilmember was a step in the right direction (**3 - 0**). President Steitz expressed his opposition stating two assistants could be accomplished without wasting taxpayer money.

On motion of Councilmember Ronquillo, seconded by Councilmember Bredefeld, duly carried, RESOLVED, the above entitled Resolution No. 99- 316 hereby adopted, by the following vote:

Ayes	:	Boyajian, Bredefeld, Perea, Ronquillo
Noes	:	Mathys, Quintero, Steitz
Absent	:	None

President Steitz noted the item was subject to the Mayor's veto.

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The visiting third grade class from Viking Elementary School was recognized and welcomed.

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**(11:00 A.M.) HEARING ON PLAN AMENDMENT NO. A-99-020, REZONING APPLICATION NO. R-99-030, AND ENVIRONMENTAL FINDINGS, FILED BY CALIFORNIA NEVADA HAWAII DISTRICT CHURCH EXTENSION FUND, PROPERTY LOCATED AT 1321 E. NEES AVENUE**

**1. RESOLUTION NO. 99-317 - AMENDING THE WOODWARD PARK COMMUNITY PLAN**

**2. BILL NO. B-74 - ORDINANCE NO. 99-69 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM, AS AMENDED, ADDING A CONDITION RELATING TO FENCING**

President Steitz announced the time had arrived to consider the issue and opened the hearing. Councilmember Bredefeld made a motion to approve staff's recommendation noting there was no opposition and the project was an appropriate use of land, which motion was seconded and acted upon after discussion. Planner Beach advised of and submitted a letter received this date from Pastor George Posthumus requesting a block wall fence be constructed on the west property line, a copy of which is on file in the office of the City Clerk.

Speaking to the issue were: Dirk Poeschel, 2310 Tulare , representing the applicant, who reviewed and spoke in support of the project, stated he did not feel a block wall was necessary and there might be benefit for a pre-cast wall if it made good business sense and explained, and requested the applicant be given the flexibility to look into the matter; and Pastor Posthumus who noted the area was supportive of the project but wanted more of a permanent structure with a block wall.

Upon call, no one else wished to be heard and President Steitz closed the public testimony portion of the hearing.



Mr. Poeschel, Pastor Posthumus and Mr. Beach responded to questions of Councilmember Bredefeld relative to the difference between a pre-cast wall and block wall, willingness of applicant to look into a pre-cast wall, non-support of the neighbors for the wooden fences, and bringing the fence issue back to Council.

On motion of Councilmember Bredefeld, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the mitigated negative declaration for Environmental Assessment No. A-99-020, R-99-030 and C-99-131 hereby approved; the above entitled Resolution No. 99-317 adopted; and the above entitled Bill No. B-74 approving R-99-030 adopted as Ordinance No. 99-69, conditioned upon staff bringing the fence issue back to Council before issuance of building permits, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz
Noes	:	None
Absent	:	None

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#### **UNSCHEDULED ORAL COMMUNICATIONS:**

APPEARANCE BY GERALD MORENO, BIKE RIDER, W. NORWICH AVENUE, REGARDING WEEDS AND DEBRIS ON CITY STREETS

Appearance made with Councilmembers Mathys and Boyajian requesting Mr. Moreno give them the relevant addresses/locations.

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#### **LUNCH RECESS - 11:26 A.M. - 2:11 P.M.**

**(5E) DIRECT THE CITY ATTORNEY TO DRAFT AN ORDINANCE FOR INITIATION AMENDING THE UGM ORDINANCE TO REQUIRE THE ADDITION OF A FULL-SERVICE POLICE SUBSTATION IN NORTHEAST FRESNO; FEES TO BE ASSESSED ON ALL NEW RESIDENTIAL/COMMERCIAL DEVELOPMENT WITHIN THE WOODWARD PARK AREA - COUNCILMEMBER PEREA**

Speaking in support of the issue were: Mark Birnbaum, 501 E. Mallard Circle, Woodward Lakes; Anna Herrera, 1677 E. Lexington; Tony DelaTorre; and Larry Bertao, Fresno Police Officers Association.

Upon call, no one else wished to be heard and President Steitz closed the public testimony portion of the matter.

Mr. Bertao, Police Chief Winchester and City Manager Reid responded to questions of Councilmember Bredefeld relative to FPOA's support for a substation further north, overcrowded conditions at the El Dorado substation, if the Police Department concurred with FPOA's position, if a developer had previously offered property at Friant and Fresno Street for a substation and if the Department would have supported that, and changing the policing boundaries. Councilmember Bredefeld stated he had been talking about the need for a substation for years and made a motion to approve direction, which was later seconded and acted upon. Councilmember Bredefeld clarified even though the amendment would be initiated and go through a process it should in no way impede the construction of a northeast substation.

Mr. Reid advised (1) if a UGM fee was going to be assessed it would have to comply with the government code mitigation fee ordinance which required a lengthy study of some kind, (2) the City could be lax in the study process, come up with a reasonable fee, see if any challenges come forth, and construct the substation more quickly without hiring a consultant and conducting analysis making it more cost effective, and (3) the substation could be built without a fee but dollars from the Police Department's existing budget would have to be redirected and explained.

Lengthy discussion ensued with Mr. Reid, Chief Winchester, City Attorney Montoy and Bill Sparks, Director of Government Relations, BIA, responding to questions of Councilmembers Ronquillo, Mathys, Boyajian and Bredefeld relative to how police substations were normally paid for, amenities covered by UGM fees, how geographical areas are currently policed, benefit of centralized locations for substations, if there was a substation north of Barstow, **(4 - 0)** benefit of Pinedale's station, intent of the direction/motion, new development paying its fair share, which areas UGM fees were collected from, if fees would be collected from the Central High area for the northeast substation, size of the proposed substation, plans for more police presence in west central Fresno, willingness of the BIA to meet with developers to develop a plan and be part of the substation solution, and feasibility/legality of a city-wide fee for police services.

On motion of Councilmember Bredefeld, seconded by Councilmember Perea, duly carried, **RESOLVED**, the City Attorney directed to draft an ordinance for initiation amending the UGM ordinance to require the addition of a full-service police substation in northeast Fresno, and appropriate staff directed to begin the necessary studies to develop a fee to be assessed on all new residential/commercial development within the Woodward Park Area, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz
Noes	:	None
Absent	:	None

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**(1A-2) \* RESOLUTION NO. 99-318 - 366<sup>TH</sup> AMENDMENT TO MFS RES. 80-420 ESTABLISHING A PERMIT FEE FOR SAFE AND SANE FIREWORKS SALES FOR THE PERIOD DECEMBER 26, 1999, TO JANUARY 1, 2000, FOR THE MILLENNIUM CELEBRATION**

A motion and second to adopt the resolution was made. Councilmember Bredefeld expressed his opposition stating the city should not be allowing this, and Councilmember Ronquillo expressed his support stating this would occur during the wet season and was a great opportunity for everyone to have fun. President Steitz briefly reviewed some of the requirements.

On motion of Acting President Mathys, seconded by President Steitz, duly carried, **RESOLVED**, the above entitled Resolution No. 99-318 hereby adopted, by the following vote:

Ayes	:	Boyajian, Mathys, Quintero, Ronquillo, Steitz
Noes	:	Bredefeld, Perea
Absent	:	None

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**(2:30 P.M.) HEARING TO CONSIDER REQUEST OF AT&T CORPORATION AND MEDIA ONE OF FRESNO, INC. FOR APPROVAL AND CONSENT TO CHANGE OF CONTROL OF CABLE ANTENNA TELEVISION SYSTEM FRANCHISE UNDER CABLE TELEVISION ORDINANCE AND FCC APPLICATION 394**

**1. RESOLUTION - CONDITIONALLY APPROVING AND CONSENTING TO THE CHANGE OF CONTROL OF CABLE ANTENNA TELEVISION SYSTEM FRANCHISE, CONTINGENT UPON EXECUTION OF CONSENT BY FRANCHISE AND POSTING OF GUARANTY**

President Steitz announced the time had arrived to consider the issue and opened the hearing.

City Hearing Officer Baida reviewed the staff report as submitted and specifics of the issue; relative to Mandatory Cable Platform Access advised staff felt it would be premature for the City to make such a policy decision and recommended the resolution not be adopted at this time; and stated neither the City nor proponents of open access would suffer detriment by waiting until there was a legal clarification of the City's powers. Relative to the breakthrough item described by Mr. Baida, City Manager Reid emphasized language was included to allow subscribers to buy an extra new ISP and "click through" and get access in a very convenient fashion.

Karen Munro, Regional Vice President, MediaOne, 1945 N. Helm, stated the issue was about competition and investment and explained, and spoke in support of the transfer.

Speaking to the transfer and/or open access issues were: Diane Scott, 4843 N. Thesta; Mark Scozzari, Open Access Alliance, 1625 E. Shaw #130; Lorraine Person, 5661 N. Callisch; Alma Margosian, 3619 N. Orchard; Richard Rolph, President, Quadranet Internet Services, 1817 N. Farris; Nadine Cox, representing Communication Workers of America Local 9408, 7370 N. Warren; Keith Epstein, General Counsel for Pacific Bell Internet Services, 303 2<sup>nd</sup> St., N. Tower, Ste. 850, S.F. **(5 - 0)**; Milo Medin, 425 Broadway, Redwood City; Joel Fox, Hands Off the Internet, 17939 Chatsworth St., Granada Hills; Perry Parks, Regional Vice President, MediaOne, 550 Continental Blvd., El Segundo; and Eileen Martin, Vice President/General Manager, MediaOne, 1945 N. Helm.

Continuing were: Rachelle Chong, former FCC Commissioner, 4 Embarcadero Center, Ste. 3300, S.F.; Cindy Daly, Vice President of External Affairs, AT&T, 2927 Prospect Dr. Sacramento, CA; Steve Poggi, AT&T, 7112 N. Fresno St.; Peter Arnold, Executive Director, Hands Off the Internet Coalition based in Washington, Vienna, VA; Erik Johnson, 5555 E. Olive; Eva Torres, Associate Director, Radio Bilingue, 5005 E. Belmont; Venancio Gaona, Retired School Teacher/President, El Concilio de Fresno, 5209 E. Hamilton; Joe Rocha, 187 W. Duke; Kathi Oram, 86 Partridge Dr., San Rafael; Mark Phigler, 1547 Palos Verdes; Mark Cowart, 2190 N. Winery, President, Local Technology Co.; and John Navarro, Fresno Pacific University, 288 W. San Ramon **(6 - 0)**.

Upon call, no one else wished to be heard and President Steitz closed the public testimony portion of the hearing.

Councilmember Ronquillo stated open access would serve the public interest and explained, stated he was leaning towards open access, and questioned the type of resolution and findings needed for open access, with City Attorney Montoy clarifying issues and recommending staff be allowed to review the record and testimony and return in one week with a resolution and appropriate findings. Brief discussion ensued on the potential of incurring legal fees, with Councilmember Ronquillo stating those who were interested in, and would benefit from open access, should share in that responsibility adding the City alone should not bear those fees.

Mr. Scozzari responded to questions of Acting President Mathys relative to impact on small ISP's without open access, and ability to continue to do business with a small ISP with open access. Acting President Mathys stated he was a small business owner and believed there was a need for open access to be business-friendly, and made a motion to direct staff to return with a resolution mandating open access as a condition of the transfer, which was seconded and later acted upon.

Upon request of Mr. Reid, Mr. Baida clarified/responded to Acting President Mathys' questions relative to whether or not a local business could sell their products on the Internet if staff's resolution was adopted, and what the competitive issues would be on the pricing.

Mr. Johnson, Mr. Epstein and Ms. Daly responded to questions of President Steitz relative to Pacific Bell's pricing, plans of AT&T to purchase Pac Bell, and plans of Pac Bell to purchase AT&T. President Steitz emphasized there was open access now and if the transfer was approved with the conditions in the staff report anyone could still use any Internet service they wanted and explained, stated he opposed the motion as it did not make any sense, and urged Council to support staff's recommendation which would save hundreds of thousands of dollars in legal fees. Upon request of Councilmember Bredefeld, Mr. Epstein stated there was a misunderstanding and clarified and elaborated on the concept of open access and advised of service pricing. Councilmember Bredefeld noted the consumer needed to have as much choice as possible, and stated he was concerned about ISP's being closed or locked out in some way and he would support open access and the motion.

Councilmember Quintero submitted a letter from Portland Commissioner Erik Sten, which letter was made part of the record and is on file in the office of the City Clerk, and read portions of the letter which expressed hope that Fresno would adopt legislation supporting open access and join Portland in leading this national fight. Upon question of Councilmember Quintero, Mr. Scozzari stated the Open Access Alliance would provide assistance to the City of Fresno.

Brief discussion ensued on the motion on the floor, options staff would be returning with in one week, clarifying open access would be a condition of the transfer, and direction to staff to utilize Portland's model and court's decision for guidance. Citing the 120 day time period to act, Mr. Reid requested staff be given flexibility and return with three options/resolutions and explained, which was accepted by the motion maker.

On motion of Acting President Mathys, seconded by Councilmember Ronquillo, duly carried, RESOLVED, staff directed to return in one week with three resolutions as follows: (1) mandating open access as a condition of the transfer, with staff directed to utilize the City of Portland, Oregon's model and lower court's decision for guidance; (2) the resolution submitted this date as outlined above; and (3) a resolution denying the transfer, by the following vote:

Ayes	:	Boyajian, Bredefeld, Mathys, Perea, Quintero, Ronquillo
Noes	:	Steitz
Absent	:	None

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**(2:00 P.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:**

**A. EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (a) - CASE NAMES:**  
**1. FRESNO CITY EMPLOYEES ASSOCIATION V. CITY OF FRESNO, ET AL.**

2. JOHNNIE POPLIN V. CITY OF FRESNO

**B. ANTICIPATED LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (b) - SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAMES:**

1. PATTERSON ENVIRONMENTAL RESPONSE TRUST V. CITY OF FRESNO
2. PATRIOT HOMES FRESNO V. CITY OF FRESNO
3. PATRIOT HOMES FRESNO II V. CITY OF FRESNO

The City Council met in closed session in Room 2125 at the hour of 4:50 p.m. to consider the above issues and adjourned thereafter.

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**ADJOURNMENT**

There being no further business to bring before the Council, the hour of 5:20 p.m. having arrived and hearing no objections, President Steitz declared the meeting adjourned.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Ken Steitz, Council President

ATTEST: \_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk